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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,671	09/30/2003	William Kress Bodin	AUS920030245US1	6747
34533 7590 12/31/2007 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469			EXAMINER MANIWANG, JOSEPH R	
			ART UNIT 2144	PAPER NUMBER
			MAIL DATE 12/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/675,671

Applicant(s)

BODIN ET AL.

Examiner

Joseph R. Maniwang

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. Pat. App. Pub. 2003/0229514), and further in view of Rao et al. (U.S. Pat. No. 7,181,375), hereinafter referred to as Rao.
3. Regarding claims 1, 9, and 17, Brown disclosed a method and system comprising receiving, within a network, a plurality of disparate user metrics ("Monitoring device 28 is designed to produce measurements of a physiological condition of the patient, record the measurements, and transmit the measurements", see paragraph [0005], p. 4, second column; "a biometric sensor 79 may utilize or augment the data gathered by the monitoring device", see paragraph [0005], p. 6, first column); saving the plurality of disparate user metrics ("Database 28 is designed to store response 42 and measurements 44", see paragraph [0005], p. 4, second column).
4. Brown did not specifically disclose identifying a subset of the saved disparate user metrics that comprise a user metric pattern; and storing the subset of the saved disparate user metrics as a user metric pattern.

5. In a related art, Rao disclosed a similar invention involving receiving and storing disparate user metrics over a network (see column 3, line 51 through column 4, line 3; see column 5, lines 14-24), and further disclosed identifying and storing patterns within the data (see column 2, lines 47-55; column 4, lines 4-33, 48-62; column 7, lines 1-9).

6. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Brown and Rao to provide a system for receiving and storing disparate user metrics, further identifying and storing a subset pattern of the saved metrics as claimed. Brown clearly disclosed a system capable of collecting disparate data for the purpose of analyzing such data to identify a particular person. Rao similarly collected data for analysis, disclosing the use of data mining for identifying patterns within the data. One of ordinary skill would have been motivated to incorporate an analysis method such as data mining in Brown as Brown disclosed that any type of data analysis known in the art could be used in processing the collected metrics ("The present invention may use any type of biometric information gathering and analysis as described herein or known to those skilled in the art", see paragraph [0005], p. 5, first column). Rao disclosed such an analysis technique known in the art, which would have motivated an ordinary artisan to use such a technique since it was quick, efficient, cost-effective, and provided high-quality data (see column 1, lines 39-60).

7. Regarding claims 2, 10, and 18, Brown disclosed the method and system wherein receiving, within the network, a plurality of disparate user metrics comprises receiving a plurality of disparate user metrics from a metric sensor worn by the user ("a

biometric sensor 79 may utilize or augment the data gathered by the monitoring device", see paragraph [0005], p. 6, first column).

8. Regarding claims 3, 11, and 19, Rao disclosed the method and system wherein identifying a subset of the saved disparate user metrics that comprise a user metric pattern comprises mining the saved disparate user metrics (see column 2, lines 47-55; column 4, lines 4-33, 48-62; column 7, lines 1-9).

9. Regarding claims 4, 12, and 20, Rao disclosed the method and system wherein storing the subset of the saved disparate user metrics as a metric pattern comprises creating a metric list; and associating the metric list with a user metric pattern data structure (see column 3, line 51 through column 4, line 19).

10. Regarding claims 5, 13, and 21, Rao disclosed the method and system comprising associating an action with the metric pattern (see column 7, lines 23-47).

11. Regarding claims 6, 14, and 22, Rao disclosed the method and system wherein associating an action with the metric pattern comprises retrieving an action ID from an action database (see column 7, lines 23-47).

12. Regarding claims 7, 15, and 23, Brown disclosed the method and system comprising editing the subset of the saved disparate user metrics (see paragraph [0005], p. 7).

13. Regarding claims 8, 16, and 24, asdf disclosed the method and system wherein editing the subset of the saved disparate user metrics comprises receiving an editing instruction from a user (see paragraph [0005], p. 7).

Response to Arguments

14. Applicant's arguments filed 09/26/07, with respect to the rejection(s) of claim(s) 1-24 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Brown (U.S. Pat. App. Pub. 2003/0229514) and Rao et al. (U.S. Pat. No. 7,181,375) as detailed above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Epler et al. (U.S. Pat. No. 7,024,370)

Strubbe et al. (U.S. Pat. No. 6,721,706)

Beigel et al. (U.S. Pat. App. Pub. 2003/0174049)

Cho et al. (U.S. Pat. No. 7,160,252)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

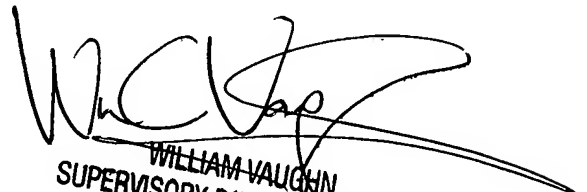
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM


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